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STATE OF IDAHO
DEPARTMENT OF RECLAMATION
Lynn Crandall, Watermaster
Idaho Falls, Idaho

Water District No. .

June 18, 1942

RECEIVED

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Department of Reclamation

Mr. Lowell A. Dalley
Driggs, Idaho

Dear Mr. Dalley:

Replying to yours of the 15th instant; In the Wyoming Federal Court decree entitled Roxana Canal Company et al. vs. Chas. Daniels et al., in which is set out the plan to be followed in delivering water on Teton Creek, it is provided as follows: "It being understood and agreed that all ditches diverting in Wyoming and now having legal appropriations of water in Wyoming and/or Idaho, to be supplied from the one-half of said stream flow awarded to Wyoming, excepting therefrom the Grand Teton Canal.....which shall be supplied from the Idaho portion."

Apparently you do not have a legal appropriation in Wyoming because your land was not included in the list of lands when the Rigby Ditch filing was made. Under the Idaho laws, however, an appropriation of water can be made either by filing in the office of the State Commissioner of Reclamation or by actual diversion and use. In the latter case the appropriation can be decreed by bringing an action in the District Court at any subsequent time against the local watermaster as provided in Section 41-1305 Idaho Code Annotated. The date of priority and quantity of water would be determined by testimony as to when actual use on your land first occurred.

The priority of the Central Teton Canal Company is October 31, 1903, which is so late that it is only a flood water right.

Inasmuch as your land has always been watered through the Wyoming diversion and you have an Idaho appropriation by use, I would think that your water would come from Wyoming's share of the water under the Federal Court decree, provided your right is definitely fixed by decree.

In case the Wyoming watermaster and State Engineer should refuse to supply your right from Wyoming's share of the water it might be necessary for you to also bring an action in the Wyoming Federal Court to have the matter determined. In any event your first step should be to get your right decreed by the Idaho District Court.

Very truly yours,

Watermaster.

cc: L.C.Bishop, State Engineer, Cheyenne
✓2 cc: E.V.Berg, State Com. of Reclamation, Boise